



Mariana Trench Monument Advisory Council Inaugural Meeting June 5-6, 2012



**Fiesta Resort & Spa, Coral Tree Ave, Garapan, Saipan
Azucena II Meeting Room
MINUTES**

Tuesday, June 5, 2012

I) Call to Order

Meeting was called to order at 10:05 a.m.

II) Attendance

Mariana Trench Monument Advisory Council (MTMAC) members:

- 1) Mr. Ben Sablan – Commonwealth of the Northern Mariana Islands (CNMI),
- 2) Mr. Arnold Palacios - CNMI,
- 3) Dr. John Joyner - CNMI,
- 4) Mr. Roy Tsutsui – Department of Defense, and
- 5) LCDR Morgan Roper – United States Coastal Guard.

Supporting Federal agencies:

- 1) Mr. Barry Stieglitz - United States Fish and Wildlife Services (USFWS),
- 2) Ms. Susan White– USFWS,
- 3) Ms. Lisa Croft – National Oceanic and Atmospheric Administration/National Marine Fisheries Service (NMFS) , and
- 4) Ms. Heidi Hirsh – NMFS.

III) Welcoming remarks by Governor Benigno Fitial

The Governor welcomed the MTMAC to CNMI. He informed the MTMAC of six stipulations promised by the U.S. President's Council on Environmental Quality (CEQ) in order to gain the support of the CNMI for the establishment of the Monument. He emphasized the importance of those stipulations to the CNMI culture and economy and charged the MTMAC to address them.

IV) New Business

A. Elect MTMAC leadership positions:

- 1) Chairperson: Mr. Sablan was elected the Chairman for MTMAC.
- 2) Vice Chairperson: Dr. Joyner was elected the Vice Chairman for the MTMAC.
- 3) Secretary/Treasurer: Mr. Tsutsui was elected the Secretary/Treasurer for the MTMAC. [Note: The Treasurer position was later determined not necessary for the MTMAC.]

B. MTMAC Advisory Council Remarks:

Dr. Joyner expressed anticipation about the work of the council and thanked the MTMAC Advisory Council (Council) for selecting him as Vice Chairman.

LCDR Morgan expressed USCG commitment to using available assets and resources to readily ensure protection.

Mr. Palacios welcomed the off-island visitors to the meeting and acknowledged the support of Department of Commerce, Department of Interior, Department of Defense and Homeland Security. He also acknowledged the many hours of work of the fish and wildlife staff spent on putting administrative issues together in getting the MTMAC off the ground. He thanked the individuals involved on coordinating the meeting. He gave some background information on the establishment of the Monument. One of the biggest issues was the islands unit. The islands unit extends out about 50-miles around the three northern most CNMI islands. Local officials wanted assurance of certain rights and traditional access to resources in the islands unit. There were also the issues of mineral rights on what the commonwealth can benefit from and expectations on Monument revenue sharing with the CNMI. He said these issues need to be addressed by the MTMAC .

Mr. Stieglitz thanked everyone's participation, acknowledged that the meeting was an important event and was being recorded.

Ms. White thanked the Chairman and looked forward to working with the Council.

C. Adoption of the Agenda (see enclosure (1))

The proposed agenda was adopted with the modification to include discussion on the six CEQ stipulations promised to CNMI mentioned by the Governor and Mr. Palacios. USFWS agreed to take minutes of the MTMAC meeting.

D. MTMAC Member Organization and Procedures

After a thorough discussion, the MTMAC agreed to operate by striving for consensus rather than using a majority vote; however, for each MTMAC recommendation or

advice given to the Federal agencies each of the members' thoughts or opinions will be documented and provided to the Federal agencies.

E. Presidential Proclamation Roles and Responsibilities of MTMAC

MTMAC members agreed there was already sufficient understanding and further discussion was not necessary.

F. Review notes from February 23, 2012 business meeting – USFWS (see enclosure (2))

The MTMAC did not have any significant concerns or changes.

G. Options for organization - Discuss examples provided on other government-to-government advisory committees – USFWS and NMFS to present examples for discussion

The MTMAC decided to draft By-laws to provide transparency of its operational procedures and focus (see enclosure (3)).

H. Discuss secretariat position

The MTMAC defined the secretariat role as primarily administrative support for the MTMAC. The USFWS and NMFS agreed to provide this support to the MTMAC.

I. Options for coordinating with Guam

Increasing MTMAC membership: Mr. Steiglitz stated the USFWS solicitor's office confirmed that members could be added to the MTMAC. The process would be for the MTMAC to make such recommendation to the Federal Agencies, then in response, an official nomination from the Governor of Guam would be requested and the process through Secretaries of Interior and Commerce would be the same as appointing the existing MTMAC members.

Consideration for inviting Guam participation: The MTMAC was favorable for a recommendation to add Guam membership; however, deferred making a recommendation decision until Governor Fitial could have a discussion on the idea with Governor Calvo. Mr. Palacios offered to talk to Governor Fitial about inviting a representative(s) from Guam to participate on the MTMAC and would have an answer by the next meeting. Also, Mr. Palacios stated that the Western Pacific Fishery Management Council recommended that representative(s) from Guam participate on the MTMAC.

Ms. Croft suggested that the MTMAC consider having a cap to adding members to the Advisory Council, and if a cap on membership was decided then it should be included into the by-laws.

V) Provide information and update on Cameron's expedition- USFWS

Ms. White provided an overview of the Cameron Deepsea Challenge expedition. She stated that in December 2011, a professor from SCRIPTS Institute of Oceanography contacted FWS and asked for a permit to dive into the Marianas Trench. The initial intent was to dive into the Challenger Deep and then Sirena Deep. The purpose of diving into the two trenches was to collect scientific information and to film the expedition. They received two (2) permits: one for research and monitoring to collect samples and deploy un-manned landers, and one for producing a documentary and education film.

For more information of the expedition, it is posted online at <http://www.deepseachallenge.com>.

James Cameron did not dive at Sirena Deep but the landers were deployed there. Sirena Deep has a very dramatic scene that James Cameron would like to see, unlike the Challenger Deep's flat and non-described scene. Unfortunately, the weather deteriorated so they weren't able to dive into Sirena Deep.

Mr. Tsutsui asked about the current fees for this scientific venture and the concept of economic value and revenue sharing with the CNMI .

- Mr. Steiglitz mentioned that the fees today might change in the future. The Federal government is only allowed to recover costs in administrative permits and it cannot be a revenue generator. Those funds are not retained by the agencies but are submitted into the general treasury fund.

- Ms. White clarified the commercial film permit that was issued was not for theatrical commercial filming. There were specific about wanting to create a documentary about the dive/expedition and to film for educational purposes.

VI) New or outstanding issues

Dr. Joyner asked if there was any information that the Federal Agencies could share regarding permit(s) given to China for their upcoming expedition similar to the Deepsea Challenge trip to the Marianas Trench.

- Ms White reported there was no request to the U.S. for China to enter the Federated States of Micronesia waters.

- LCDR Roper stated the Coast Guard District 14th office in Honolulu was looking into it and would report to the MTMAC with any news.

VII) Other Discussion and decisions

Mr. Sablan asked Mr. Tsutsui to facilitate the MTMAC discussion on the six points identified in the December 26, 2008 email to Governor Fitial from Mr. Connaughton, Director of the Council on Environmental Quality at that time. Copies were distributed to MTMAC members (see enclosure (4)). The CEQ document was an e-mail not an official letter from Mr. James Connaughton to the CNMI Governor and Mr. Arnold Palacios.

The next few hours were spent discussing these six CEQ commitments and developing corresponding MTMAC action items. See enclosure (5) for the action item list.

VIII) Continue MTMAC Member Organization and Procedures

Mr. Tsutsui led a discussion on how the MTMAC could develop interim bylaws using the Rose Atoll MNM Intergovernmental Committee Charter as an example. Mr. Tsutsui advised that the by-laws could be developed in a 2-hour period and recommended the MTMAC's second meeting day (Business Meeting) begin with this goal.

First day adjourned at 4:25 p.m.

Wednesday, June 6, 2012

IX) Call to Order : Meeting was called to order at 8:37 a.m.

X) Attendance

Mariana Trench Monument Advisory Council (MTMAC) members:

- 1) Mr. Ben Sablan – Commonwealth of the Northern Mariana Islands (CNMI),
- 2) Mr. Arnold Palacios - CNMI,
- 3) Dr. John Joyner - CNMI,
- 4) Mr. Roy Tsutsui – Department of Defense, and
- 5) LCDR Morgan Roper – United States Coastal Guard.

Supporting Federal agencies:

- 4) Mr. Barry Stieglitz - United States Fish and Wildlife Services (USFWS),

- 5) Ms. Susan White– USFWS,
- 6) Ms. Lisa Croft – National Oceanic and Atmospheric Administration/National Marine Fisheries Service (NMFS) , and
- 4) Ms. Heidi Hirsh – NMFS.

XI) Review of previous day's business

Mr. Sablan, MTMAC Chair, summarized the previous day meeting minutes.

XII) Interim MTMAC By-laws

Mr. Tsutsui began discussion on draft interim by-laws with a draft document he prepared using the Rose Atoll Intergovernmental Committee Charter (see enclosure (6)). He asked that 2-hours be allowed and the Council members agreed. The document was reviewed and consensus made on each section as follows:

1. **Council's Official Designation.** Marianas Trench Monument Advisory Committee (MTMAC)
2. **Purpose.** Stated that the MTMAC Advisory Council “provides advice and recommendations to the Secretaries of Interior and Commerce on the development of management plans and management of the monument” (Source: Proclamation)
3. **Authority.** Section of the MTMAC interim by-laws, which was taken from the proclamation stated that the “Proclamation 8335 does not grant any additional authorities to the MTMAC or its members other than to provide advice and recommendations stated in the above purpose.”
4. **Agency or Official to Whom the MTMAC Reports.** Briefly described that the MTMAC Advisory Council was to give an advice and recommendation(s) to the Secretaries of the Interior and Commerce.
5. **Objectives, Responsibilities and Scope of Activities.** The MTMAC Advisory Council is responsible to request for the information, review the information, and provide advice and recommendation on the management of the Monument.

The six focus areas of the Council's objectives were adopted from the monument management planning section from the Presidential Proclamation. Focus areas 7 and 8 were added to address the Department of Defense (DoD) and U.S. Coast Guard missions as stipulated in the Proclamation. The DoD and U.S. Coast Guard

ensure protection of national security, protection of property issues, protection of law enforcement and emergency responses.

Member Responsibilities. Added sentence “may include but not limited to...” (Source: Rose Atoll Charter). The responsibilities section is to remind the Council of his/her roles on the Council.

- Ms. Croft suggested to add “conducting other activities as necessary to achieve the purpose of the MTMAC”.

Scope. “The MTMAC’s scope of the activities shall apply to all matters regarding but within the boundaries of the monument and extent of Proclamation 8335”

- Mr. Stieglitz advised to exclude the Secretarial order 1134 at this time because it must fall within the Presidential Proclamation 8335.

6. **Membership Nomination, Appointment and Term Limit.** MTMAC Advisory Council “shall consist of three (3) officials CNMI recommended by the Governor, one (1) representative recommended by the Department of Defense, one representative recommended by the U.S. Coast Guard. Members of the Council will be appointed by the Secretaries of Interior and Commerce for the term of three (3) years.

Adding additional MTMAC members and membership limit/cap: Consensus was made that additional members may be recommended by a consensus of all the current voting members; however the maximum number of MTMAC members shall not exceed seven.

Absentee voting: If a member were not present, the present MTMAC members would contact that person (absent member) to ask for his/her vote. The MTMAC would need a consensus of all the members in order for the MTMAC to recommend to the Federal Agencies to add new members.

CNMI alternate member: Mr. Palacios asked about alternates. For CNMI, if there should be an alternate, would it be at the CNMI Governor discretion to have an alternate? It was agreed this section needs further clarification and legal review.

- It was understood the CNMI Governor may designate one (1) alternate with equal delegated authorities as the primary member from the respective governmental entity; however, the Federal Agencies will provide a legal clarification by the next meeting.

Eligibility criteria: Dr. Joyner raised the issue regarding being employed with the CNMI government verses being an “official” with their respective government agency.

- Ms. White stated that the MTMAC is a FACA exempt governing body. She referred to the Rose Atoll Intergovernmental Committee also as a FACA exempt body. A primary FACA exemption criteria was for all the members to be government employees.

- The MTMAC revised the eligibility section to read, "To be eligible to be nominated to the MTMAC a person must be official by their respective government agency".

-- The Federal Agencies will assist with legal review on this statement in addition to a CNMI legal review.

7. MTMAC Leadership Positions, Description of Duties and Term Limits.

Chairperson duties – In coordination with the USFWS and the NOAA/NMFS, the Chairperson schedules, calls to order, conducts, facilitates consensus building, and adjourns meetings. The Chairperson also determines meeting agendas with assistance from National Fisheries Service and Fish and Wildlife and members. The Chairperson will chair the MTMAC public outreach forums and public open house events. Acts as a strategic messenger spokes person. Votes as part of the consensus voting process. The Chairperson position's term is two (2) years or to the end of the MTMAC appointment, as applicable.

Vice Chairperson duties. (Source Rose Atoll Charter and enclosure (3)) no changes made.

Secretary duties: Ensures each MTMAC meeting is properly documented by the Federal Agencies; ensures minutes are taken, then reviews minutes for accuracy and reports minutes to the MTMAC for acceptance; ensures the administrative record is maintained by the Federal Agencies and publicly available; ensures action items are tracked and reported to the Council.

Treasurer: MTMAC and the Federal Agencies agreed that the duties of a treasurer were not needed at the moment. The treasurer duties were removed from MTMAC interim By-laws.

8. NMFS and USFWS MTMAC Assistance Expectations.

In this section the Council would be looking at assistance from the Federal Agencies to include:

- Providing subject matter expertise and research for MTMAC questions
- Legal opinions for consistency with Federal Law,
- Providing appropriate reports, draft plans and final plans and explaining them to the MTMAC when needed and to the public, as appropriate.
- Taking MTMAC meeting minutes and providing minutes to the Secretary for review.

- Maintaining the MTMAC official administrative record and ensuring it compiles with public availability criteria [These records shall be available for public inspection and copying, subject to the Freedom of Information Act]
- Identifying and obtaining meeting venues.
- Providing meeting announcements one week prior using media website and other appropriate means.
- Providing toll free conference call capabilities.
- Providing administrative costs.
- Establishing and maintaining a MTMAC webpage on an existing agency website which could also be used for Monument public education and awareness.

MTMAC Executive Session: Ms. Croft recommended the MTMAC be able to have an executive session when deemed necessary.

- Mr. Tsutsui recommended that if the MTMAC chose to hold an executive session, the MTMAC should make it known to the public and include the reason.

- An action item was made for NMFS to provide language on holding an executive session.

9. MTMAC Operating Procedures. (Source: Proclamation)

In addition to the MTMAC operating procedures listed in the Proclamation, the MTMAC added:

- Operates by exchanging individual members' views, information or advice relating to management of the Monument and management plan

- When consensus for advice and recommendation is not reached, each member's opinion is documented and submitted to the NMFS/NOAA and USFWS.

- Consensus process is also used for adopting procedures to govern MTMAC activities, and recommendations for membership additions and deletions.

- Meetings. Shall strive to be conducted in person to allow transparency. Meeting via conference call shall strive to only occur to discuss administrative/business matters, not matters dealing with the management of the Monument or the Monument management plan. However, when an official meeting is appropriate to be held by teleconference or video teleconference information on why it was not held in person, and availability of those meeting minutes shall be made public no later than one month of the meeting. The public will also be notified no later than one month after any meetings deemed necessary to be closed to the public and the notification will include the reason for closing the meeting to the public. Official meetings shall be held annually or as needed.

-- Federal agencies will provide a legal review of these stipulations

- Robert's Rules of Order:

"Robert's Rules of Order will be used within a modification to attaining consensus. Consensus vote include agree (thumbs up), can live with it – which is neutral (thumbs pointing sideways) and disagree (thumbs down). When a member disagrees the Chairperson requests for the reason for disagreement to be discussed. The members will strive for adjustment to make a consensus agreement and then make another consensus vote. If appropriate attempts to reach consensus fails, then the opinions of all the members are documented and reported to the Federal Agencies. If the primary and alternate members are both present, only one can vote. A majority vote may only be used on matters regarding MTMAC procedures for governing its activities – i.e. elections when a consensus is not attained.

- All submitted advice or recommendations will include the opinions of all voting MTMAC members.

- Quorum: A member for a quorum is the designated member or the member's alternate. Official meeting quorum is attained if at least two (2) CNMI members and both DoD and USCG members are present. Should this not be attained, the missing member(s) needed for a quorum can authorize the meeting to proceed (after review of the agenda items) without them or participate remotely. After missing a meeting, the missing member(s) opinions on items discussed will be sought and documented. Agendas may be adjusted to ensure no quorum conflicts .

- Elections: Leadership positions are elected by the MTMAC voting members when a quorum is attained. Elections are held every two years as scheduled by the Chairperson in coordination with the members. Members may nominate each other for leadership positions or the Chair can ask a member to except a nomination. A member who is nominated must accept the nomination before a consensus vote is taken. If a consensus is not attained then discussion is sought to strive for consensus. If consensus is still not attained, the majority vote may decide.

- Operating Costs (source: proclamation and by-laws):

MTMAC did not have any discussion on operating costs since the costs for meeting venues, teleconferences, administrative record, etc. were covered under the Federal Agencies commitments section.

- Duration (Sunset Clause):

Dr. Joyner recommended that the sunset clause should state that the "MTMAC could consult tri-annually with FWS and NMFS regarding the ongoing role of MTMAC and its duration and extension." This sentence was added to the interim bylaws.

- - The Federal Agencies and CNMI will provide a legal review on the sunset clause statement.

- Liability (Source: Rose Atoll Charter):
Council made no further comment on the liability section.

- Signatures.:

The Interim MTMAC By-laws will have five signatures (all of the members' signatures).

XIII. Report on Science Plan Development – NOAA PIFSC - presented by Eric Breuer

MTMAC Comments:

- Mr. Tsutsui thanked Mr. Breuer for a great presentation. Mr. Tsutsui recommended as a MTMAC/Federal Agencies Action Item #7 to investigate funding opportunities and to inform students, scientists and public on funding opportunities to learn/investigate MTMNM.

- Mr. Palacios asked what was the time line for preparing the draft Marianas Archipelago Science Plan. Mr. Breuer said it might take about 6-months, although Ms. Croft advised that it might take longer.

- Mr. Sablan asked if there was a baseline resource assessment being done. Mr. Breuer answered that the Monument program funding is limited and is split between Rose Atoll, Marianas Trench, Pacific Remote Island areas.

XIV. Science, Exploration and Research Workshops – NOAA PIFSC, Mr. Breuer

MTMAC and Federal Agency comments:

- Ms. Croft asked if there were any possibilities to have the workshop held in the Marianas (Saipan). Mr. Breuer supported this idea and talked about the possibility of holding bi-annual conferences alternating between Saipan and Guam.

- Mr. Palacios asked about ways to share information regarding ongoing and past research in the Monument. As result of the discussion, MTMAC/Federal Agency action item #8 was prepared for NMFS and USFWS to look for opportunities to identify and track all research and monitoring in the Monument and CNMI (i.e., CNMI to learn about past, present, and future [permitted] science). This action would be due during the September 2012 teleconference business meeting.

- MTMAC/Federal Agency action item #9 was then prepared to have NMFS (Kona Workshop Team) and USFWS to explore opportunities for providing educational and scientific workshops in the Mariana Islands. This information would be during the September 2012 teleconference business meeting.

XV. Monument Management Plan Update – (Ms. Hirsh)

Ms. Hirsh asked the MTMAC members for feedback on the draft preliminary goals.

- Mr. Tsutsui asked about goal #2, if cultural fishing methods used forms of nets and some poison, would those methods be acceptable in the Islands Unit? He also addressed goal #6, federally listed and endangered species, asking why there was no mention of locally listed species.

-- Ms. Hirsh clarified that the goal was written to be very broad whereby the NMFS and USFWS would develop the alternatives to the proposed action in the management plan/Environmental Assessment to address traditional access by indigenous persons for cultural and religious uses. Also NMFS would address net sizes and the use of poison through the non-commercial fishing regulations process with the WESTPAC Council at a later time. Also, locally listed species would be added to goal #6.

- Mr. Stieglitz reminded the MTMAC that when information (planning) is at the pre-decisional stage, that information that should not be put out before the public.

- Mr. Sablan agreed to have the MTMAC provide NMFS and USFWS comments on the preliminary goals by July 20th, action item #10.

- Ms. White mentioned that there is a draft table of contents and draft goals; however, she recommended to go over them on the next agenda or conference call and the MTMAC agreed.

XVI. Other business

Mr. Palacios updated the MTMAC that there was a request from the Guam legislature through a resolution (Source: Resolution 408-31) for Guam to have representation in the MTMAC. This resolution was forwarded to him by Manny Duenas of the WESTPAC Council dated on 5.3.12

XVII. Next steps: Review any agenda items for next meeting.

Mr. Sablan requested the Federal Agencies develop the agenda for the next meeting.

Ms. Croft requested to have the interim by-laws finalized by the next meeting agenda and to finalize minutes and approve the minutes from this meeting.

MTMAC/Federal Agencies agreed to meet on September 4th (Honolulu Time) and September 5th (Saipan Time) at 9 a.m. Saipan time (pending confirmation from LCDR Roper).

MTMAC Business Meeting Adjourned 4:10 p.m.

PUBLIC OUTREACH AND COMMENTS STARTED: 4:15 p.m.

- Mr. John Fury- Recommended having an action item to focus on Visitor Center. He then shared information and accomplishments of the Asian Pacific Academy of Science Education and Environmental Management and recommended use of local entities such as APASEEM, Marianas Community College and University of Guam. Refer to their website for more information. <http://apaseem.org>.
- Mr. Ray Tebuteb - Showed appreciation to the MTMAC. He strongly requested that the MTMAC consider all the public recommendations and comments. He recommended the Federal Agencies establish an office in the CNMI to coordinate the MTMAC's specific objectives.
- Mr. John Gourley – Strongly against use of MTMAC alternate members. He would like to see NO alternates. The MTMAC accomplished a lot within two (2) days. Personally, he would not like to see new MTMAC members until a management plan is done. He recommended MTMAC cap maximum members at 5. The current MTMAC is a good working group. If more members are added it will complicate things. Guam can be invited as a non-voting participant. It is not clear if Guam member(s) are added if they will be voting members or non-voting members. Ensure the public can provide input before MTMAC action items are finalized.
- Bryon Jones - Thank you. Acknowledged educational outreach program support.

END OF PUBLIC OUTREACH AND COMMENTS: 4:30 p.m.

MTMAC Business Meeting Re-Engaged: 4:34 p.m.

The MTMAC discussed the issues that the public had brought up during the Outreach and added action items below:

- Action Item #12. Organize an interagency meeting or task force (including CNMI) to review and provide solutions and status on the visitors center / multipurpose facility. This action item would be tasked to USFWS/NMFS (NOAA)

- Action Item #13. As a matter of business, consider recommending use of local entities (ie. APASEEM, MCC, UoG, etc.) to support / organize meetings /conferences, etc. This action item would be tasked to the Federal Agencies when planning meetings, workshops and conferences for the MTMAC or the Monument.

- Action Item #14. As a matter of business, incorporate placement of comments into a “parking lot” and defer decision-making until official MTMAC meetings. This action item would be tasked to the MTMAC.

XVIII. MTMAC Business Meeting Adjourned at 5:06 p.m.

Minutes submitted by:

_____ **Date:** _____
Mr. Roy N. Tsutsui, Secretary

Minutes approved by:

_____ **Date:** _____
Mr. Ben Sablan, President

Enclosures:

- (1) Agenda
- (2) Notes from February 23, 2012 business meeting
- (3) Draft MTMAC By-laws
- (4) December 26, 2008 email to Governor Fitial and Mr. Arnold Palacios from Mr. Connaughton (CEQ)
- (5) MTMAC/Federal Agency action item list
- (6) Rose Atoll Intergovernmental Committee Charter